

§ 1214.202

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outside the United States are entered or withdrawn from the U.S. Customs Service for consumption in the United States. Included are persons who hold title to foreign-produced kiwifruit immediately upon release by the U.S. Customs Service, as well as any persons who act on behalf of others, as agents or broker, to secure the release of kiwifruit from the U.S. Customs Service when such kiwifruit are entered or withdrawn for consumption in the United States.

(h) *Kiwifruit* means all varieties of fresh kiwifruit classified under the species *Actinidia deliciosa* or the genus *Actinidia*, whose fruit is a large berry, oval in shape, with a brown skin covered in hairs, which are grown in or imported into the United States.

§ 1214.202 Voting.

(a) Each person who is an eligible producer or importer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast only one ballot in the referendum. However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce kiwifruit, in which more than one of the parties is a producer, shall be entitled to cast one ballot in the referendum covering only such producer's share of the ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer or importer, or an administrator, executor, or trustee of an eligible producing or importing entity may cast a ballot on behalf of such producer or importer entity. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible producer or importer, or an administrator, executor, or trustee of an eligible producing or importing entity, and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) All ballots are to be cast by mail.

§ 1214.203 Instructions.

The referendum agent shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions of this section, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the time of commencement and termination of the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. Ballot material shall provide for recording essential information including that needed for ascertaining:

(1) Whether the person voting, or on whose behalf the vote is cast, is an eligible voter;

(2) The total volume of kiwifruit produced by the voting producer during the representative period; and

(3) The total volume of kiwifruit imported by the voting importer during the representative period.

(c) Give reasonable advance public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible producers and importers, whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in presence of an agent of the Office of Inspector General.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.